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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,505	07/29/2003	Steven R. Bystrom	212/502	7911
23371	7590	08/04/2004	EXAMINER	
CROCKETT & CROCKETT 24012 CALLE DE LA PLATA SUITE 400 LAGUNA HILLS, CA 92653			DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,505

Applicant(s)

BYSTROM ET AL.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-4, 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,398,744 in view of Halperin et al. 4,928,674 and Morgan et al. 5,593,426.

3. Patent '744 claims a resuscitation system including a chest compression device and a defibrillator. Controlling means are recited to control the chest compression device and the defibrillator in response to the indication of the operator's predetermined permitted level of access. The defibrillator would be inoperable unless activated by the processor dependent on the level of access read from the identification card.

4. Halperin also teaches a resuscitation system including a chest compression device and a defibrillator. The Halperin system also includes an EKG sensor and a processor for controlling the operation of the chest compression device and the defibrillator. Halperin also teaches in column 5, lines 54-68, that a "safety system tests itself on power-up to be sure it is operative".

This safety system would inherently check all of the parts of the system to make sure everything

is in proper working order. If the system detects an error it would not allow operation of the system and display a message indicating the problem. If everything was in normal working order then the system would allow normal operation of the system. This would appear to comprehend the claimed sensing means for determining the device has been activated. The display would indicate that resuscitation is in use and transmitting a power signal to other components turning them on when the system checked out OK.

5. Morgan also teaches a resuscitation system that includes an EKG sensor and a defibrillator for delivering a therapeutic shock to the patient based on the EKG signal. Morgan also teaches a communication system for communicating with emergency medical system and personnel.

6. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include a safety system as taught by Halperin to sense when the device is activated to transmit signals to the other components to make sure everything is in normal operating order and to display an indication that everything is on and normal operation can proceed. Just as obvious is to include a communication system as taught by Morgan to communicate the resuscitation operation to an emergency system and personnel for proper supervisory control.

7. **Claims 5-9, 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,398,744 in view of Halperin et al. 4,928,674 and Kramer et al. 5,405,362.**

8. Kramer also teaches a resuscitation system that includes a defibrillator and EKG measuring system. Kramer also teaches a communication system for communicating with an emergency medical system and personnel. Kramer also teaches means for delivering a drug to

the patient. When the safety system is engaged and the system finds a fault in the system the operation of the device would be disabled to prevent use of the faulty system. This would disable the drug delivery system making the means for delivery inoperable unless activated by the processor.

9. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include a safety system as taught by Halperin to sense when the device is activated to transmit signals to the other components to make sure everything is in normal operating order and to display an indication that everything is on and normal operation can proceed. Just as obvious is to include a communication system as taught by Kramer to communicate the resuscitation operation to an emergency system and personnel for proper supervision and to include a drug delivery system as taught by Kramer to provide the added benefit of administering drugs to the patient in the process of resuscitation.

10. Claims 1-4, 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,599,258 in view of Halperin et al. 4,928,674.

11. Patent '258 claims a resuscitation system including a chest compression device and a communication system. The communication system is for communicating with an emergency medical system. A sensor is also claimed for indicating that the resuscitation device is in use. This would appear to comprehend the now claimed sensing means for determining when the resuscitation device is in use and generating a signal indicating such.

12. Halperin also teaches a resuscitation system including a chest compression device and a defibrillator. The Halperin system also includes an EKG sensor and a processor for controlling

the operation of the chest compression device and the defibrillator. Halperin also teaches in column 5, lines 54-68, that a “safety system tests itself on power-up to be sure it is operative”. This safety system would inherently check all of the parts of the system to make sure everything is in proper working order. If the system detects an error it would not allow operation of the system and display a message indicating the problem. If everything was in normal working order then the system would allow normal operation of the system. This would appear to comprehend the claimed sensing means for determining the device has been activated. The display would indicate that resuscitation is in use and transmitting a power signal to other components turning them on when the system checked out OK.

13. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include the defibrillator and EKG sensor system as taught by Halperin to provide the added benefit of including a defibrillator and EKG sensor system to the device to enhance the resuscitation method to treat ventricular fibrillation.

14. Claims 5-9, 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,599,258 in view of Halperin et al. 4,928,674 and Kramer et al. 5,405,362.

15. Kramer also teaches a resuscitation system that includes a defibrillator and EKG measuring system. Kramer also teaches a communication system for communicating with an emergency medical system and personnel. Kramer also teaches means for delivering a drug to the patient. When the safety system is engaged and the system finds a fault in the system the operation of the device would be disabled to prevent use of the faulty system. This would

disable the drug delivery system making the means for delivery inoperable unless activated by the processor.

16. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include the defibrillator and EKG sensor system as taught by Halperin to provide the added benefit of including a defibrillator and EKG sensor system to the device to enhance the resuscitation method to treat ventricular fibrillation. Just as obvious is to include a communication system as taught by Kramer to communicate the resuscitation operation to an emergency system and personnel for proper supervision and to include a drug delivery system as taught by Kramer to provide the added benefit of administering drugs to the patient in the process of resuscitation.

17. Claims 1-4, 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,090,056 in view of Halperin et al. 4,928,674.

18. Patent '056 claims a resuscitation system including a chest compression device and a communication system. The communication system is for communicating with an emergency medical system. A sensor is also claimed for indicating that the resuscitation device is in use. This would appear to comprehend the now claimed sensing means for determining when the resuscitation device is in use and generating a signal indicating such.

19. Halperin also teaches a resuscitation system including a chest compression device and a defibrillator. The Halperin system also includes an EKG sensor and a processor for controlling the operation of the chest compression device and the defibrillator. Halperin also teaches in column 5, lines 54-68, that a "safety system tests itself on power-up to be sure it is operative".

This safety system would inherently check all of the parts of the system to make sure everything is in proper working order. If the system detects an error it would not allow operation of the system and display a message indicating the problem. If everything was in normal working order then the system would allow normal operation of the system. This would appear to comprehend the claimed sensing means for determining the device has been activated. The display would indicate that resuscitation is in use and transmitting a power signal to other components turning them on when the system checked out OK.

20. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include the defibrillator and EKG sensor system as taught by Halperin to provide the added benefit of including a defibrillator and EKG sensor system to the device to enhance the resuscitation method to treat ventricular fibrillation.

21. Claims 5-9, 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,090,056 in view of Halperin et al. 4,928,674 and Kramer et al. 5,405,362.

22. Kramer also teaches a resuscitation system that includes a defibrillator and EKG measuring system. Kramer also teaches a communication system for communicating with an emergency medical system and personnel. Kramer also teaches means for delivering a drug to the patient. When the safety system is engaged and the system finds a fault in the system the operation of the device would be disabled to prevent use of the faulty system. This would disable the drug delivery system making the means for delivery inoperable unless activated by the processor.

23. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include the defibrillator and EKG sensor system as taught by Halperin to provide the added benefit of including a defibrillator and EKG sensor system to the device to enhance the resuscitation method to treat ventricular fibrillation. Just as obvious is to include a communication system as taught by Kramer to communicate the resuscitation operation to an emergency system and personnel for proper supervision and to include a drug delivery system as taught by Kramer to provide the added benefit of administering drugs to the patient in the process of resuscitation.

24. Claims 1-4, 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,179,793 in view of Halperin et al. 4,928,674 and Morgan et al. 5,593,426.

25. Patent '793 claims a resuscitation system including a chest compression device and an EKG measuring system and a defibrillator. Controlling means are recited to control the chest compression device and the defibrillator in response to the EKG signal received.

26. Halperin also teaches a resuscitation system including a chest compression device and a defibrillator. The Halperin system also includes an EKG sensor and a processor for controlling the operation of the chest compression device and the defibrillator. Halperin also teaches in column 5, lines 54-68, that a "safety system tests itself on power-up to be sure it is operative". This safety system would inherently check all of the parts of the system to make sure everything is in proper working order. If the system detects an error it would not allow operation of the system and display a message indicating the problem. If everything was in normal working order then the system would allow normal operation of the system. This would appear to

comprehend the claimed sensing means for determining the device has been activated. The display would indicate that resuscitation is in use and transmitting a power signal to other components turning them on when the system checked out OK.

27. Morgan also teaches a resuscitation system that includes an EKG sensor and a defibrillator for delivering a therapeutic shock to the patient based on the EKG signal. Morgan also teaches a communication system for communicating with emergency medical system and personnel.

28. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include a safety system as taught by Halperin to sense when the device is activated to transmit signals to the other components to make sure everything is in normal operating order and to display an indication that everything is on and normal operation can proceed. Just as obvious is to include a communication system as taught by Morgan to communicate the resuscitation operation to an emergency system and personnel for proper supervisory control.

29. Claims 5-9, 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,179,793 in view of Halperin et al. 4,928,674 and Kramer et al. 5,405,362.

30. Kramer also teaches a resuscitation system that includes a defibrillator and EKG measuring system. Kramer also teaches a communication system for communicating with an emergency medical system and personnel. Kramer also teaches means for delivering a drug to the patient. When the safety system is engaged and the system finds a fault in the system the operation of the device would be disabled to prevent use of the faulty system. This would

disable the drug delivery system making the means for delivery inoperable unless activated by the processor.

31. It would have been obvious to one of ordinary skill in the art to modify the patent claims to include a safety system as taught by Halperin to sense when the device is activated to transmit signals to the other components to make sure everything is in normal operating order and to display an indication that everything is on and normal operation can proceed. Just as obvious is to include a communication system as taught by Kramer to communicate the resuscitation operation to an emergency system and personnel for proper supervision and to include a drug delivery system as taught by Kramer to provide the added benefit of administering drugs to the patient in the process of resuscitation.

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. **Claims 1-4 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halperin et al. 4,928,674 in view of Morgan et al. 5,593,426.**

34. As noted above, Halperin teaches a resuscitation system including a chest compression device and a defibrillator. The Halperin system also includes an EKG sensor and a processor for controlling the operation of the chest compression device and the defibrillator. Halperin also teaches in column 5, lines 54-68, that a “safety system tests itself on power-up to be sure it is operative”. This safety system would inherently check all of the parts of the system to make sure

everything is in proper working order. If the system detects an error it would not allow operation of the system and display a message indicating the problem. If everything were in normal working order then the system would allow normal operation of the system. This would appear to comprehend the claimed sensing means for determining the device has been activated. The display would indicate that resuscitation is in use and transmitting a power signal to other components turning them on when the system checked out OK.

35. Morgan also teaches a resuscitation system that includes an EKG sensor and a defibrillator for delivering a therapeutic shock to the patient based on the EKG signal. Morgan also teaches a communication system for communicating with emergency medical system and personnel.

36. It would have been obvious to one of ordinary skill in the art to modify Halperin to include a communication system as taught by Morgan to communicate the resuscitation operation to an emergency medical system and personnel for proper supervisory control.

37. **Claims 4-9 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halperin et al. 4,928,674 in view of Morgan et al. 5,593,426 and Kramer et al. 5,405,362.**

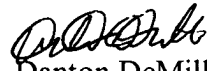
38. Kramer also teaches a resuscitation system that includes a defibrillator and EKG measuring system. Kramer also teaches a communication system for communicating with an emergency medical system and personnel. Kramer also teaches means for delivering a drug to the patient. When the safety system is engaged and the system finds a fault in the system the operation of the device would be disabled to prevent use of the faulty system. This would

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disable the drug delivery system making the means for delivery inoperable unless activated by the processor.

39. It would have been obvious to one of ordinary skill in the art to modify Halperin to include a communication system as taught by Morgan to communicate the resuscitation operation to an emergency system and personnel for proper supervision and to include a drug delivery system as taught by Kramer to provide the added benefit of administering drugs to the patient in the process of resuscitation.

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